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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,483	03/16/2005	Peter Josef Martin	387-04	6304
27569 7590 PAUL AND PAUL 2000 MARKET STREET SUITE 2900 PHILADELPHIA, PA 19103			EXAMINER BONK, TERESA	
			ART UNIT	PAPER NUMBER
			3725	
SHORTENED STATUTORY PERIOD OF RESPONSE		NOTIFICATION DATE	DELIVERY MODE	
3 MONTHS		03/26/2007	ELECTRONIC	

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Notice of this Office communication was sent electronically on the above-indicated "Notification Date" and has a shortened statutory period for reply of 3 MONTHS from 03/26/2007.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/524,483	<b>Applicant(s)</b> MARTIN ET AL.	
	<b>Examiner</b> Teresa M. Bonk	<b>Art Unit</b> 3725	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) 3 and 7-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 2 and 4-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/16/05</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. During a telephone conversation with Mr. John McNulty on March 13, 2007 a provisional election was made without traverse to prosecute the invention of species I (Figures 1-3), claims 1, 2, and 4-6. Affirmation of this election must be made by applicant in replying to this Office action. Claims 3 and 7-12 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

### ***Specification***

2. The abstract of the disclosure is objected to because it is not in the proper format as set forth in MPEP § 608.01(b). The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details. Correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1, 2, and 4-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, the term “substantially” on lines 8 and 13 renders the claim indefinite.

Regarding multiple dependent claim 5, there is insufficient antecedent basis in claim 1 for the limitation “the axis” and in claim 2 there are two axes so it is not clear which axis it being referred to in claim 5.

#### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

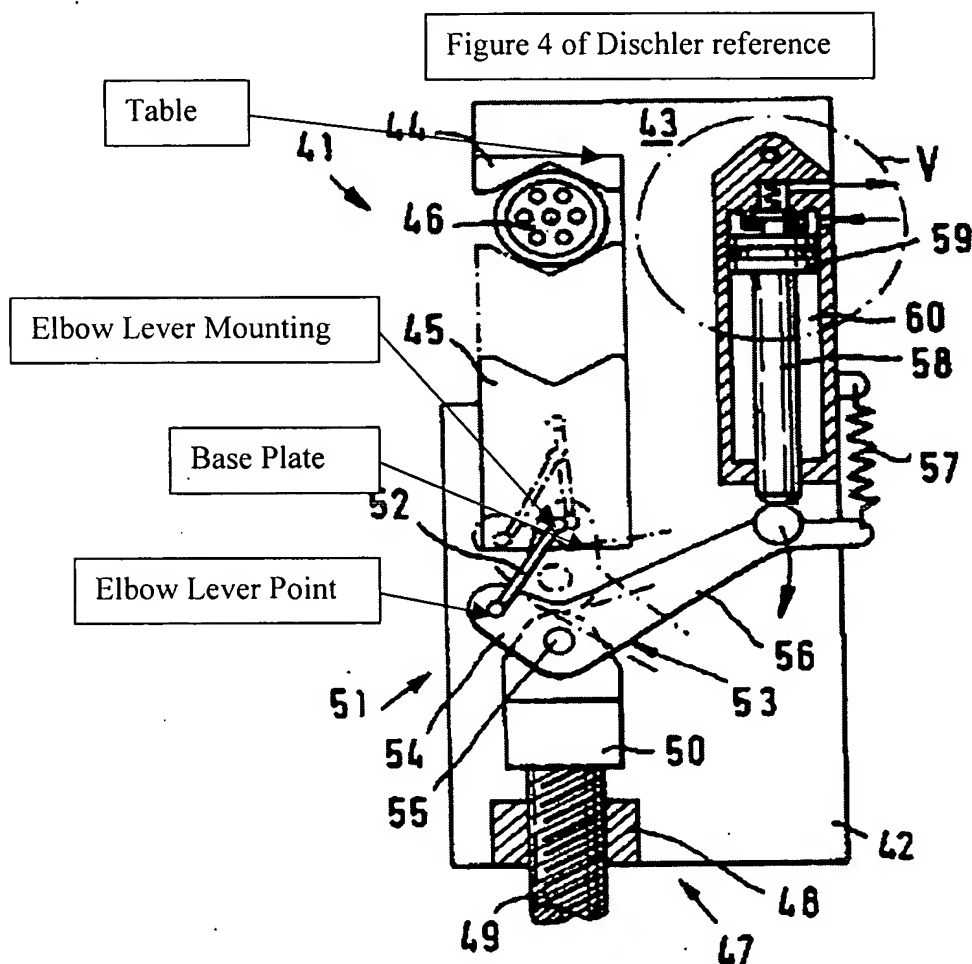
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1 and 4-6 are rejected under 35 U.S.C. 102(b) as being anticipated by Dischler (US Patent 5,720,199). Dischler discloses an apparatus that is capable of punching, stamping, and/or shaping flat elements (Column 1, lines 10-12) having a base body (42/43) with a table and a support (44) for the workpiece (46) and a base plate (see attached Figure 4 of the Dischler reference on page 4 of this Office Action) which supports a tool punch (45) that can be moved by means of a drive (hydraulic cylinder 60); coupled between the drive and the base plate are transmission means (which moves the base plate from a rest position I to shortly before the working position in a fast approach, low power motion and then to the working position II in a slow approach, high power motion, and then finally back in the rest position I in a rearward

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motion, Column 5, lines 24-29, Column 6, lines 9-53) having a least one rotary lever (56) pivotable about a stationary pivot point (55) fixed to the base body and is coupled at one of its ends by way of an elbow lever pivot (see attached Figure 4 of the Dischler reference on page 4 of this Office Action) to one end of a short pivot lever (52) whose other end is coupled to the base plate by way of an elbow lever mounting (see attached Figure 4 of the Dischler reference on page 4 of this Office Action).

Regarding claim 5, the linear direction of movement of the base plate is predetermined by a column guide means (74 in Figure 6, Column 6, lines 53-60) operative between the base body and the base plate.



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6. Claims 1 and 2 are rejected under 35 U.S.C. 102(b) as being anticipated by Uehara et al. (US Patent 5,253,572). Uehara et al. discloses an apparatus that punches, stamps, and/or shapes flat elements having a base body (8) with a table (7) and a support (7H) for the workpiece and a base plate (6) which supports a tool punch (6H) that can be moved by means of a drive (40); coupled between the drive and the base plate are transmission means (10) which moves the base plate from a rest position I to shortly before the working position in a fast approach, low power motion and then to the working position II in a slow approach, high power motion, and then finally back in the rest position I in a rearward motion (Column 6, lines 7-11, Column 7, lines 34-46). The axis of the drive (X) is perpendicular to the axis of the tool punch (Y) see Figure 1.

### *Conclusion*

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Teresa M. Bonk whose telephone number is (571) 272-1901. The examiner can normally be reached on M-F 9:00 AM - 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Banks Derris can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Teresa M. Bonk  
Examiner  
Art Unit 3725



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